



**COURT OF MAGISTRATES (MALTA)
AS A COURT OF CRIMINAL JUDICATURE**

**MAGISTRATE DR.
GABRIELLA VELLA**

Sitting of the 27 th January, 2012

Number 88/2012

**Police
(Inspector Kevin Pulis)**

vs

Anthony J. Jenkins

The Court,

After having seen charges brought against Anthony J. Jenkins, 17 years of age, born on the 1st October 1994, son of Raymond Mark and Heather, residing at 52, Diamer, St. John Street, Birzebbugia, and holder of Identity Card No. 51962(A), of:

1. Having on the 9th November 2011 at about 16:00hrs from 52, Diamer, St. John Street, Birzebbugia, committed theft of money, which theft is aggravated by person but value does not exceed two hundred and thirty-two Euro

and ninety-four cents (€232.94), to the detriment of his mother Heather Jenkins;

2. Having on the 8th January 2012 at about 10:00hrs in 52, Diamer, St. John Street, Birzebbugia caused his father Raymond Mark Jenkins and his sister Ruby Jane Polidano fear that violence will be used against them or their property;

3. Having on the 8th January 2012 at about 10:00hrs in 52, Diamer, St. John Street, Birzebbugia caused slight injuries on the person of Ruby Jane Polidano as certified by Dr. M. Farrugia of Mater Dei Hospital;

4. Having on the 8th January 2012 at about 10:00hrs in 52, Diamer, St. John Street, Birzebbugia caused slight injuries on the person of Raymond Mark Jenkins as certified by Dr M. S. Caruana of Paola Health Centre;

5. Having breached a probation order by the Magistrates Court on the 10th October 2011, by Magistrate Dr. A Vella; and

6. Being a recidivist in terms of Sections 49, 50 and 289 of Chapter 9 of the Laws of Malta, after being found guilty by the Magistrates Court by judgement dated 10th October 2011.

After having considering that the Prosecution withdrew the charge against the accused that he is to be deemed a recidivist in terms of Sections 49, 50 and 289 of Chapter 9 of the Laws of Malta and dealt with accordingly;

After having heard the accused plead guilty to the charges brought against him, notwithstanding the fact that the Court in terms of Section 453(1) of Chapter 9 of the Laws of Malta warned him in the most solemn manner of the legal consequences of his guilty plea after having given him sufficient time within which to reconsider and withdraw his guilty plea;

After having heard evidence given by the Social Worker Daniela Farrugia and the Probation Officer Joseph Mizzi and after having examined all documents forming part of the proceedings;

After having heard the Prosecuting Officer and Defence Counsel declare that in so far as concerns the punishment to be imposed on the accused, the Court is to consider the substance of evidence given by the Social Worker Daniela Farrugia and the Probation Officer Joseph Mizzi;

Considers:

Since the Prosecuting Officer withdrew the charge against the accused that he is to be deemed a recidivist in terms of Sections 49, 50 and 289 of Chapter 9 of the Laws of Malta and dealt with accordingly, the Court shall not take cognisance of the said charge.

In view of the guilty plea submitted by the accused to the other charges brought against him the Court should duly find him guilty of said charges, however in so far as concerns the first charge the Court can only find the accused guilty of simple theft since the aggravating circumstance put forth by the Prosecution does not subsist at law.

Therefore, after having considered Sections 221, 222, 251B, 284 and 285 of Chapter 9 of the Laws of Malta, the Court finds that accused guilty of the first charge only in so far as concerns the offence of simple theft and finds him guilty of the second, third and fourth charges brought against him. In the circumstances however, and particularly in the light of the evidence given by the Social Worker Daniela Farrugia and by the Probation Officer Joseph Mizzi, the Court does not deem a prison sentence to be an adequate punishment for the accused and since in this case there subsist the reasons set out in Article 7(2) of Chapter 446 of the Laws of Malta, in terms of Section 7(1) of said Chapter 446 of the Laws of Malta orders that the accused be placed under a Probation Order for a period of three (3) years from today, and this subject to the conditions set out attached Decree dated 27th January 2012, which Decree forms an integral part of this judgement.

In terms of Section 7(7) of Chapter 446 of the Laws of Malta the Court explained to the accused in ordinary language the legal consequences if he commits an offence during this probationary period of three (3) years.

In so far as it concerns the fifth charge, in the circumstances and after having considered Section 21 of Chapter 446 of the Laws of Malta, the Court opts not to deal with the accused for the offence in respect of which the Probation Order dated 10th October 2011 was issued but it confirms that same order and once again explained to the accused in ordinary language the legal consequences if he commits an offence during the said probation period.

In terms of Section 7(8) of Chapter 446 of the Laws of Malta the Court is hereby ordering that a copy of this judgement and Probation Order dated 27th January 2012 be served on the Director of Probation Services.

In terms of Section 382A and 412C(1) of Chapter 9 of the Laws of Malta, the Court further subjects the accused to a Restraining Order for the protection of Heather Jenkins, Raymond Mark Jenkins and Ruby Jane Polidano and this for the term and under the conditions set out in the relative Decree dated 27th January 2012, attached to this judgement and forming an integral part thereof. The Court explained to the accused the legal consequences should he infringe the Restraining Order being imposed on him.

In terms of Section 392A of Chapter 9 of the Laws of Malta, the Court orders that the acts of these proceedings, together with a copy of this judgement be transmitted to the Attorney General within the period of time stipulated by law.

< Final Judgement >

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